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Indian Citizen Series.

GOVERNMENT OF INDIA ACT, 1915

BEING

A SUPPLEMENT

TO

INDIAN CONSTITUTIONAL DOCUMENTS

(1773=1915)

COMPILED AND EDITED

WITH AN INTRODUCTION

BY

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Supplement to Indian Constitutional Docu-
ments.**

OTHERS IN PREPARATION.

PREFACE.

The Government of India Act, 1915, came just too late for inclusion in the original volume ; hence it is published as a small supplementary volume. This statute brings up to date the record of constitutional landmarks along which the Indian Constitution has developed since the acquisition by the East India Company of the Dewani of Bengal in 1765.

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P. MUKHERJI.

GOVERNMENT OF INDIA ACT, 1915.

[5 & 6 Geo. 5, Ch. 61.]

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SUPPLEMENT
TO
INDIAN CONSTITUTIONAL DOCUMENTS.

GOVERNMENT OF INDIA ACT, 1915.

(5 & 6 Geo. 5. Ch. 61).

AN ACT TO CONSOLIDATE ENACTMENTS RELATING TO
THE GOVERNMENT OF INDIA. [29TH JULY 1915.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

PART I.

HOME GOVERNMENT.

The Crown.

1. The territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King, Emperor of India, and all rights which, if the Government of India Act, 1858, had not been passed, might have been exercised by the East India Company in relation to any territories, may be exercised by and in the name of His Majesty as rights incidental to the government of India.

**Government of India
by the Crown.**

The Secretary of State.

2.—(1) Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act, as, if the Government of India Act, 1858, had not been passed, might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of that Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone.

The Secretary of State.

21 & 22 Vict., c. 106.

(2) In particular, the Secretary of State may, subject to the provisions of this Act, superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances, and all other payments and charges, out of or on the revenues of India.

(3) There shall be paid out of the revenues of India to the Secretary of State and to his under secretaries respectively the like yearly salaries as may for the time being be paid to any other Secretary of State and his under secretaries respectively.

The Council of India.

3.—(1) The Council of India shall consist of such number of members, not less than ten and not more than fourteen, as the Secretary of State may determine.

The Council of India.

(2) The right of filling any vacancy in the council shall be vested in the Secretary of State.

(3) Unless at the time of an appointment to fill a vacancy in the council nine of the then existing members of the council are persons who have served or resided in British India for at least ten years, and have not last left British India more than five years before the date of their appointment, the person appointed to fill the vacancy must be so qualified.

(4) Every member of the council shall hold office, except as by this section provided, for a term of seven years.

(5) The Secretary of State may, for special reasons of public advantage, re-appoint for a further term of five years any member of the council whose term of office has expired. In any such case the reasons for the re-appointment shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament. Save as aforesaid, a member of the council shall not be capable of re-appointment.

(6) Any member of the council may, by writing signed by him, resign his office. The instrument of resignation shall be recorded in the minutes of the council.

(7) Any member of the council may be removed by His Majesty from his office on an address of both Houses of Parliament.

(8) There shall be paid to each member of the council out of the revenues of India the annual salary of one thousand pounds.

4. No member of the Council of India shall be capable of sitting or voting in Parliament.

5. The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India; but every order or communication sent to India, and every order made in the United Kingdom in relation to the government of India under this Act, shall be signed by the Secretary of State.

6.—(1) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council of India, shall be exercised at meetings of the council at which not less than five members are present.

(2) The council may act notwithstanding any vacancy in their number.

7.—(1) The Secretary of State shall be the president of the Council of India, with power to vote.

President and vice-president of council.

Seat in council disqualification for Parliament.

Duties of council.

Powers of council.

(2) The Secretary of State in Council may appoint any member of the council to be vice-president thereof, and the Secretary of State may at any time remove any person so appointed.

(3) At every meeting of the council the Secretary of State, or, in his absence, the vice-president, if present, or, in the absence of both of them, one of the members of the council, chosen by the members present at the meeting, shall preside.

8. Meetings of the Council of India shall be convened and held as and when the Secretary of State directs, but one such meeting at least shall be held in every week.

Meetings of council.

9.—(1) At any meeting of the Council of India at which the Secretary of State is present, if there is a difference of opinion on any question, except a question with respect to which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

Procedure of meetings.

(2) In case of an equality of votes at any meeting of the council, the person presiding at the meeting shall have a second or casting vote.

(3) All acts done at a meeting of the council in the absence of the Secretary of State shall require the approval in writing of the Secretary of State.

(4) In case of difference of opinion on any question decided at a meeting of the council, the Secretary of State may require that his opinion and the reasons for it be entered in the minutes of the proceedings, and any member of the council, who has been present at the meeting, may require that his opinion, and any reasons for it that he has stated at the meeting, be also entered in like manner.

10. The Secretary of State may constitute committees of the Council of India for the more convenient transaction of business, and direct what departments of business are to be under those committees respectively, and generally direct the manner in which all business of the council or committees thereof is to be transacted.

Committees of council.

Orders and Communications.

11.—(1) Subject to the provisions of this Act, every order or communication proposed to be sent to India, and every order proposed to be made in the United Kingdom by the Secretary of State under this Act, shall, unless it has been submitted to a meeting of the Council of India, be deposited in the council room for the perusal of all members of the council during seven days before the sending or making thereof.

(2) Any member of the council may record, in a minute book kept for that purpose, his opinion with respect to any such order or communication, and a copy of every opinion so recorded shall be sent forthwith to the Secretary of State.

(3) If a majority of the council so record their opinions against any act proposed to be done, the Secretary of State shall, unless he defers to the opinion of the majority, record his reasons for acting in opposition thereto.

12.—(1) Where it appears to the Secretary of State that the despatch of any communication or the making of any order, not being an order for which a majority of votes at a meeting of the Council of India is by this Act declared to be necessary, is urgently required, the communication may be sent or order made, although it has not been submitted to a meeting of the council or deposited for the perusal of the members of the council.

(2) In any such case the Secretary of State shall, except as by this Act provided, record the urgent reasons for sending the communication or making the order, and give notice thereof to every member of the council.

13. (1) Where an order concerns the levying of war or the making of peace, or the treating or negotiating with any prince or state, or the policy to be observed with respect to any prince or state, and is not an order for which a majority of votes at a meeting of the Council of India is by this Act declared to be necessary, and is an order which, in the opinion of the Secretary of State, is of a nature to require secrecy, the Secretary of State may send the order to the Governor-General in Council or to any Governor in Council or officer

or servant in India without having submitted the order to a meeting of the council or deposited it for the perusal of the members of the Council, and without recording or giving notice of the reasons for making the order.

(2) Where any despatch to the Secretary of State from the Governor-General in Council or a Governor in Council concerns the government of India or of any part thereof, or the levying of war, or the making of peace, or negotiations or treaties with any prince or state, and is, in the opinion of the authority sending it, of a nature to require secrecy, it may be marked "Secret" by that authority; and a despatch so marked shall not be communicated to the members of the Council of India unless the Secretary of State so directs.

14. Every despatch to the United Kingdom from the Governor-General in Council or a Governor in Council shall be addressed to the Secretary of State.

Address of despatches from India.

15. When any order is sent to India directing the actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless the order has in the meantime been revoked or suspended, be communicated to both Houses of Parliament within three months after the sending of the order, or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament.

Communication to Parliament as to orders for commencing hostilities.

16. It is the duty of the Governor-General in Council to transmit to the Secretary of State constantly and diligently an exact particular of all advices or intelligence, and of all transactions and matters, coming to the knowledge of the Governor-General in Council and relating to the government, commerce, revenues or affairs of India.

Correspondence by governor-general with Secretary of State.

Establishment of Secretary of State.

17. (1) No addition may be made to the establishment of the Secretary of State in Council, nor to the salaries of the persons on that establishment, except by an Order of His Majesty in Council, to be laid before both Houses of Parliament within fourteen days after the making thereof, or, if Parliament

Establishment of Secretary of State.

is not then sitting, then within fourteen days after the next meeting of Parliament.

(2) The rules made by His Majesty for examinations, certificates, probation or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

(3) The Secretary of State in Council may, subject to the foregoing provisions of this section, make all appointments to and promotions in the said establishment, and may remove any officer or servant belonging to the establishment.

18. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, grant to any secretary, officer or servant appointed on the establishment of the Secretary of State in Council, such compensation, superannuation or retiring allowance, or to his legal personal representative such gratuity, as may respectively be granted to persons on the establishment of a Secretary of State, or to the personal representatives of such persons, under the laws for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service or to personal representatives of such persons.

Pensions and gratuities.

Indian Appointments.

19. Except as otherwise provided by this Act, all powers of making rules in relation to appointments and admissions to service and other matters connected therewith, and of altering or revoking such rules, which, if the Government of India Act, 1858, had not been passed, might have been exercised by the Court of Directors of the East India Company or the Commissioners for the Affairs of India, may be exercised by the Secretary of State in Council :

Indian appointments.

Provided that in the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown or of the East India Company.

PART II.

THE REVENUES OF INDIA.

20.—(1) The revenues of India shall be received for and in the name of His Majesty, and shall, **Application of revenues.** subject to the provisions of this Act, be applied for the purposes of the Government of India alone.

(2) There shall be charged on the revenues of India alone—

- (a) all the debts of the East India Company ; and
- (b) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of that Act ; and
- (c) all expenses, debts and liabilities lawfully contracted and incurred on account of the government of India ; and
- (d) all payments under this Act.

(3) The expression “the revenues of India” in this Act shall include all the territorial and other revenues of or arising in British India, and, in particular,—

- (i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed ; and
- (ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India ; and
- (iii) all movable or immovable property in British India escheating or lapsing for want of an heir or successor, and all property in British India devolving as bona vacantia for want of a rightful owner.

(4) All property vested in, or arising or accruing from property or rights vested in, His Majesty under the Government of India Act, 1858, or this Act, or to be received or disposed

of by the Secretary of State in Council under this Act, shall be applied in aid of the revenues of India.

21. The expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council ; and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India.

Control of Secretary of State over expenditure of revenues.

22. Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not, without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operation carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues.

Application of revenues to military operations beyond the frontier.

23.—(1) Such parts of the revenues of India as are remitted to the United Kingdom, and all money arising or accruing in the United Kingdom from any property or rights vested in His Majesty for the purposes of the government of India, or from the sale or disposal thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act.

Accounts of Secretary of State with Bank.

(2) All such revenues and money shall, except as by this section is provided, be paid into the Bank of England to the credit of an account entitled "The Account of the Secretary of State in Council of India."

(3)* The money placed to the credit of that account shall be paid out on drafts or orders, either signed by two members of the Council of India and countersigned by the Secretary of State or one of his under-secretaries or his assistant under-secretary, or signed by the accountant-general on the establishment of the Secretary of State in Council or by one of the two senior clerks in the department of that accountant-general and countersigned in such manner as the Secretary of State in Council directs ; and any draft or order so signed and countersigned shall effectually discharge the Bank of England for all money paid thereon.

(4) The Secretary of State in Council may, for the payment of current demands, keep at the Bank of England such accounts as he deems expedient ; and every such account shall be kept in such name and be drawn upon by such person, and in such manner, as the Secretary of State in Council directs.

(5) There shall be raised in the books of the Bank of England such accounts as may be necessary in respect of stock vested in the Secretary of State in Council ; and every such account shall be entitled "The Stock Account of the Secretary of State in Council of India."

(6) Every account referred to in this section shall be a public account.

24. The Secretary of State in Council, by power of attorney executed by two members of the Council of India and countersigned by the Secretary of State or one of his under-secretaries or his assistant under-secretary, may authorise all or any of the cashiers of the Bank of England—

Powers of attorney for sale or purchase of stock and receipt of dividends.

- (a) to sell and transfer all or any part of any stock standing in the books of the Bank to the account of the Secretary of State in Council ; and
- (b) to purchase and accept stock for any such account ; and
- (c) to receive dividends on any stock standing to any such account ;

and, by any writing signed by two members of the Council of India and countersigned as aforesaid, may direct the application of the money to be received in respect of any such sale or dividend :

Provided that stock shall not be purchased or sold and transferred under the authority of any such general power of attorney, except on an order in writing directed to the chief cashier and chief accountant of the Bank of England, and signed and countersigned as aforesaid.

25. All securities held by or lodged with the Bank of England in trust for or on account or on behalf of the Secretary of State in Council may be disposed of, and the proceeds thereof may be applied, as may be authorised by order in writing

Provision as to securities.

signed by two members of the Council of India and countersigned by the Secretary of State or one of his under-secretaries or his assistant under-secretary, and directed to the chief cashier and chief accountant of the Bank of England.

26.—(1) The Secretary of State in Council shall, within the first fourteen days during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament—

Accounts to be annually laid before Parliament.

- (a) an account, for the financial year preceding that last completed, of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, in each of the several provinces; and of all the annual receipts and disbursements at home and abroad for the purposes of the government of India, distinguishing the same under the respective heads thereof;
- (b) the latest estimate of the same for the financial year last completed;
- (c) accounts of all stocks, loans, debts and liabilities chargeable on the revenues of India, at home and abroad, at the commencement and close of the financial year preceding that last completed, the loans, debts and liabilities raised or incurred within that year, the amounts paid off or discharged during that year, the rates of interest borne by those loans, debts and liabilities respectively, and the annual amount of that interest;
- (d) an account of the state of the effects and credits in each province, and in England or elsewhere, applicable to the purposes of the government of India, according to the latest advices which have been received thereof; and
- (e) a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof.

(2) If any new or increased salary or pension of fifty pounds a year or upwards has been granted or created within any year in respect of the said establishment, the particulars thereof shall be specially stated and explained at the foot of the account for that year.

(3) The account shall be accompanied by a statement, prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India.

27.—(1) His Majesty may, by warrant under His Royal Sign Manual, countersigned by the Chancellor of the Exchequer, appoint a fit person to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistants as may be specified in the warrant.

Audit of Indian accounts in United Kingdom.

(2) The auditor shall examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of this Act.

(3) The Secretary of State in Council shall, by the officers and servants of his establishment, produce and lay before the auditor all such accounts, accompanied by proper vouchers for their support, and submit to his inspection all books, papers and writings having relation thereto.

(4) The auditor may examine all such officers and servants of that establishment, being in the United Kingdom, as he thinks fit, in relation to such accounts and the receipt, expenditure or disposal of such money, stores and property, and may for that purpose, by writing signed by him, summon before him any such officer or servant.

(5) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relation thereto as he thinks fit, specially noting cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purposes other than those to which they are applicable.

(6) The auditor shall specify in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account, or have not been appropriated in conformity with the provisions of the law, or which have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies or irregularities which may appear in the accounts, or in the authorities, vouchers or documents having relation thereto.

(7) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(8) The auditor shall hold office during good behaviour.

(9) There shall be paid to the auditor and his assistants, out of the revenues of India, such salaries as His Majesty, by warrant signed and countersigned as aforesaid, may direct.

(10) The auditor and his assistants (notwithstanding that some of them do not hold certificates from the Civil Service Commissioners) shall, for the purposes of superannuation allowance, be in the same position as if they were on the establishment of the Secretary of State in Council.

PART III.

PROPERTY, CONTRACTS AND LIABILITIES.

28.—(1) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, sell and dispose of any real or personal estate for the time being vested in His Majesty for the purposes of the government of India, and raise money on any such real estate by way of mortgage, and make the proper assurances for any of those purposes, and purchase and acquire any property.

Power of Secretary of State to sell, mortgage and buy property.

(2) Any assurance relating to real estate, made by the authority of the Secretary of State in council, may be made under the hands and seals of three members of the Council of India.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

29.—(1) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make any contract for the purposes of this Act.

Contracts of Secretary of State.

(2) Any contract so made may be expressed to be made by the Secretary of State in Council.

(3) Any contract so made which, if it were made between private persons, would be by law required to be under seal,

may be made, varied or discharged under the hands and seals of two members of the Council of India.

(4) Any contract so made which, if it were made between private persons, would be by law required to be signed by the party to be charged therewith, may be made, varied or discharged under the hands of two members of the Council of India.

(5) Provided that any contract for or relating to the manufacture, sale, purchase or supply of goods, or for or relating to affreightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the Secretary of State in Council prescribes, be made and signed on behalf of the Secretary of State in Council by any person upon the permanent establishment of the Secretary of State in Council who is duly empowered by the Secretary of State in Council in this behalf. Contracts so made and signed shall be as valid and effectual as if made as prescribed by the foregoing provisions of this section. Particulars of all contracts so made and signed shall be laid before the Secretary of State in Council in such manner and form and within such times as the Secretary of State in Council prescribes.

(6) The benefit and liability of every contract made in pursuance of this section shall pass to the Secretary of State in Council for the time being.

30.—(1) The Governor-General in Council and any local Government may, on behalf and in the name of the Secretary of State in Council, and subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, prescribes, sell and dispose of any real or personal estate whatsoever in British India, within the limits of their respective governments, for the time being vested in His Majesty for the purposes of the government of India, or raise money on any such real estate by way of mortgage, and make proper assurances for any of those purposes, and purchase or acquire any property in British India within the said respective limits, and make any contract for the purposes of this Act.

(2) Every assurance and contract made for the purposes of this section shall be executed by such person and in such manner as the Governor-General in Council by resolution

Power to execute
assurances, &c., in
India.

directs or authorises, and if so executed may be enforced by or against the Secretary of State in Council for the time being.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

31. The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the Governor-General in Legislative Council, Power to dispose of escheated property, &c. may make any grant or disposition of any property in British India accruing to His Majesty by forfeiture, escheat or lapse, or by devolution as bona vacantia, to or in favour of any relative or connection of the person from whom the property has accrued, or to or in favour of any other person.

Rights and liabilities of Secretary of State in Council. **32.—(1)** The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council, as a body corporate.

(2) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(3) The property for the time being vested in His Majesty for the purposes of the government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(4) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company; nor shall any person executing any assurance or contract on behalf of the Secretary of State in Council be personally liable in respect thereof; but all such liabilities, and all costs and damages in respect thereof, shall be borne by the revenues of India.

PART IV.

THE GOVERNOR-GENERAL IN COUNCIL.

General Powers and Duties of Governor-General in Council.

33. The superintendence, direction and control of the civil and military government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

General powers and duties of Governor-General in Council.

The Governor-General.

34. The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

The Governor-General.

The Governor-General's Executive Council.

35. The governor-general's executive council consists of the ordinary members and the extraordinary members (if any) thereof.

Constitution of governor-general's executive council.

36.—(1) The ordinary members of the governor-general's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

Ordinary members of council.

(2) The number of the ordinary members of the council shall be five, or, if His Majesty thinks fit to appoint a sixth member, six.

(3) Three at least of them must be persons who at the time of their appointment have been for at least ten years in the service of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, of not less than five years' standing.

(4) If any person appointed an ordinary member of the council is at the time of his appointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

37.—(1) The Secretary of State in Council may, if he thinks fit, appoint the commander-in-chief for the time being of His Majesty's forces in India to be an extra-ordinary member of the governor-general's executive council, and in that case the commander-in-chief shall, subject to the provisions of this Act, have rank and precedence in the council next after the governor-general.

(2) When and so long as the council assembles in any province having a governor, he shall be an extraordinary member of the council.

38. The governor-general shall appoint a member of his executive council to be vice-president thereof.

Vice-president of council.

39.—(1) The governor-general's executive council shall assemble at such places in India as the Governor-General in Council appoints.

Meetings.

(2) At any meeting of the council the governor-general or other person presiding and one ordinary member of the council may exercise all the functions of the Governor-General in Council.

40.—(1) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a secretary to the Government of India, or otherwise, as the Governor-General in Council may direct.

Business of Governor-General in Council.

(2) The governor-general may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

41.—(1) If any difference of opinion arises on any question brought before a meeting of the governor-general's executive council the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the governor-general or other person presiding shall have a second or casting vote.

(2) Provided that whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity

or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the governor-general to do anything which he could not lawfully have done with the concurrence of his council.

42. If the governor-general is obliged to absent himself from any meeting of the council, by indisposition or any other cause, and signifies his intended absence to the council, the vice-president, or, if he is absent, the senior ordinary member present at the meeting, shall preside thereat, with the like powers as the governor-general would have had if present :

Provision for absence of Governor-general from meetings of council.

Provided that if the governor-general is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature ; but if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor-general, when present, dissents from the majority at a meeting of the council.

43.—(1) Whenever the Governor-General in Council declares that it is expedient that the governor-general should visit any part of India unaccompanied by his executive council, the Governor-General in Council may, by order, authorize the governor-general alone to exercise, in his discretion, all or any of the powers which might be exercised by the Governor-General in Council at meetings of the council.

Powers of Governor-general in absence from council.

(2) The governor-general during absence from his executive council may, if he thinks it necessary, issue, on his own

authority and responsibility, any order, which might have been issued by the Governor-General in Council, to any local Government, or to any officers or servants of the Crown acting under the authority of any local Government without previously communicating the order to the local Government; and any such order shall have the same force as if made by the Governor-General in Council; but a copy of the order shall be sent forthwith to the Secretary of State and to the local Government, with the reasons for making the order.

(3) The Secretary of State in Council may, by order, suspend until further order all or any of the powers of the governor-general under the last foregoing subsection; and those powers shall accordingly be suspended as from the time of the receipt by the Governor-General of the order of the Secretary of State in Council.

War and Treaties.

44.—(1) The Governor-General in Council may not, without the express order of the Secretary of State in Council, in any case (except where hostilities have been actually commenced, or preparations for the commencement of hostilities have been actually made against the British Government in India or against any prince or state dependent thereon, or against any prince or state whose territories His Majesty is bound by any subsisting treaty to defend or guarantee), either declare war or commence hostilities or enter into any treaty for making war against any prince or state in India, or enter into any treaty for guaranteeing the possessions of any such prince or state.

Restriction on power of Governor-General in Council to make war or treaty.

(2) In any such excepted case the Governor-General in Council may not declare war, or commence hostilities, or enter into any treaty for making war, against any other prince or state than such as is actually committing hostilities or making preparations as aforesaid, and may not make any treaty for guaranteeing the possessions of any prince or state except on the consideration of that prince or state actually engaging to assist His Majesty against such hostilities commenced or preparations made as aforesaid.

(3) When the Governor-General in Council commences any hostilities or makes any treaty, he shall forthwith communicate the same, with the reasons therefor, to the Secretary of State.

PART V.

LOCAL GOVERNMENTS.

General.

45.—(1) Every local Government shall obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province.

(2) No local Government may make or issue any order for commencing hostilities or levying war, or negotiate or conclude any treaty of peace or other treaty with any Indian prince or state (except in cases of sudden emergency or imminent danger when it appears dangerous to postpone such hostilities or treaty), unless in pursuance of express orders from the Governor-General in Council or from the Secretary of State; and every such treaty shall, if possible, contain a clause subjecting the same to the ratification or rejection of the Governor-General in Council. If any governor, lieutenant-governor or chief commissioner, or any member of a governor's or lieutenant-governor's executive council, wilfully disobeys any order received from the Governor-General in Council under this subsection, he may be suspended or removed and sent to England by the Governor-General in Council, and shall be subject to such further pains and penalties as are provided by law in that behalf.

(3) The authority of a local Government is not superseded by the presence in its province of the governor-general.

Governorships.

46.—(1) The presidencies of Fort William in Bengal, Fort St. George and Bombay are, subject to the provisions of this Act, governed by the Governors in Council of those presidencies respectively, and the two former presidencies are in this Act referred to as the presidencies of Bengal and of Madras.

Relation of local Governments to Governor-General in Council.

Governments of Bengal, Madras and Bombay.

(2) The Governors of Bengal, Madras and Bombay are appointed by His Majesty by warrant under the Royal Sign Manual.

(3) The Secretary of State may, if he thinks fit, by order, revoke or suspend, for such period as he may direct, the appointment of a council for any or all of those presidencies ; and whilst any such order is in force the governor of the presidency to which the order refers shall have all the powers of the Governor thereof in Council.

47.—(1) The members of a governor's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual, and shall be of such number, not exceeding four, as the Secretary of State in Council directs.

(2) Two at least of them must be persons who at the time of their appointment have been for at least twelve years in the service of the Crown in India.

(3) Provided that, if the commander-in-chief of His Majesty's forces in India (not being likewise governor-general) happens to be resident at Calcutta, Madras or Bombay, he shall, during his continuance there, be a member of the governor's council.

48. Every governor of a presidency shall appoint a member of his executive council to be vice-president thereof.

49.—(1) All orders and other proceedings of the Governor in Council of any presidency shall be expressed to be made by the Governor in Council, and shall be signed by a secretary to the Government of the presidency, or otherwise, as the Governor in Council may direct.

(2) A governor may make rules and orders for the more convenient transaction of business in his executive council, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the Governor in Council.

50.—(1) If any difference of opinion arises on any question brought before a meeting of a governor's executive council, the Governor in Council shall be bound by the opinion and decision of the majority of those present, and if they are equally divided the

governor or other person presiding shall have a second or casting vote.

(2) Provided that, whenever any measure is proposed before a Governor in Council whereby the safety, tranquillity or interests of his presidency, or of any part thereof, are or may be, in the judgment of the governor, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the governor may, on his own authority and responsibility, by order in writing, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

(4) Nothing in this section shall empower a governor to do anything which he could not lawfully have done with the concurrence of his council.

51. If a governor is obliged to absent himself from any meeting of his executive council, by indisposition or any other cause, and signifies his intended absence to the council, the vice-president, or, if he is absent, the senior civil member present at the meeting, shall preside thereat, with the like powers as the governor would have had if present :

Provided that if the governor is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting the act shall require his signature ; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor, when present, dissents from the majority at a meeting of the council.

52. The Secretary of State in Council may, if he thinks fit, direct that the province of Agra be constituted a presidency under a Governor in Council, and, if that direction is given, the presidency shall

Provision for absence of governor from meetings of council.

The province of Agra.

be constituted on the terms and under the conditions mentioned in section nineteen of the Government of India Act, 1853, and section four of the Government of India Act, 1854.

16 & 17 Vict., c. 95.
17 & 18 Vict., c. 77.

Lieutenant-Governorships and other Provinces.

53.—(1) Each of the following provinces, namely, those known as Bihar and Orissa, the United Provinces of Agra and Oudh, the Punjab, and Burma, is, subject to the provisions of this Act, governed by a lieutenant-governor, with or without an executive council.

(2) The Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new province under a lieutenant-governor.

54.—(1) A lieutenant-governor is appointed by the governor-general with the approval of His Majesty.

(2) A lieutenant-governor must have been, at the time of his appointment, at least ten years in the service of the Crown in India.

(3) The Governor-General in Council may, with the sanction of His Majesty previously signified by the Secretary of State in Council, declare and limit the extent of the authority of any lieutenant-governor.

55.—(1) The Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, create a council in any province under a lieutenant-governor, for the purpose of assisting the lieutenant-governor in the executive government of the province, and by such notification—

(a) make provision for determining what shall be the number (not exceeding four) and qualifications of the numbers of the council ; and

(b) make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise, and for the procedure to be adopted in case of a difference of opinion between a lieutenant-governor and his

Power to create executive councils for lieutenant-governors.

council, and in the case of equality of votes, and in the case of a lieutenant-governor being obliged to absent himself from his council by indisposition or any other cause :

Provided that, before any such notification is published a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and if, before the expiration of that time, and address is presented to His Majesty by either House of Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.

(2) Every notification under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(3) Every member of a lieutenant-governor's executive council shall be appointed by the governor-general, with the approval of His Majesty.

56. A lieutenant-governor who has an executive council shall appoint a member of the council to be vice-president thereof, and that vice-president shall preside at meetings of the council in the absence of the lieutenant-governor.

Vice-president of council.

of

vice-president thereof, and that vice-president shall preside at meetings of the

57. A lieutenant-governor who has an executive council may, with the consent of the Governor-General in Council, make rules and orders for more convenient trans- action of business in the council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Lieutenant-Governor in Council.

Business of Lieutenant-Governor in Council.

action of business in the council, and every

order made, or act done, in accordance

58. Each of the following provinces, namely, those known as Assam, the Central Provinces, the North-West Frontier Province, British Baluchistan, Delhi, Ajmer-Merwara, Coorg, and the Andaman and Nicobar Islands, is, subject to the provisions of this Act, administered by a chief commissioner.

Chief Commissioners.

Province, British Baluchistan, Delhi,

Ajmer-Merwara, Coorg, and the Andaman

59. The Governor-General in Council may, with the approval of the Secretary of State, and by notification, take any part of British India under the immediate authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting

Power to place territory under authority of Governor-General in Council.

authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting

the administration of that part, by placing it under a chief commissioner or by otherwise providing for its administration.

Boundaries.

60. The Governor-General in Council may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories of British India among the several provinces thereof in such manner as may seem expedient, subject to these qualifications, namely :—

Power to declare and alter boundaries of provinces.

- (1) an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council ; and
- (2) any notification under this section may be disallowed by the Secretary of State in Council.

61. An alteration in pursuance of the foregoing provisions of the mode of administration of any part of British India, or of the boundaries of any part of British India, shall not affect the law for the time being in force in that part.

Saving as to laws.

62. The Governor of Bengal in Council, the Governor of Madras in Council, and the Governor of Bombay in Council may, with the approval of the Secretary of State in Council, and by notification, extend the limits of the towns of Calcutta, Madras and Bombay, respectively ; and any Act of Parliament, letters patent, charter, law or usage conferring jurisdiction, power or authority within the limits of those towns respectively shall have effect within the limits as so extended.

Power to extend boundaries of presidency towns.

PART VI.

INDIAN LEGISLATION.

The Governor-General in Legislative Council.

63.—(1) For purposes of legislation the governor-general's council shall consist of the members of his executive council with the addition of members nominated or elected in accord-

Constitution of the Indian Legislative Council.

- (ii) Any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the government of India ;

and has not power to make any law affecting the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominion of the Crown over any part of British India.

(3) The Governor-General in Legislative Council has not power, without the previous approval of the Secretary of State in Council, to make any law empowering any court, other than a high court, to sentence to the punishment of death any of His Majesty's subjects born in Europe, or the children of such subjects, or abolishing any high court.

66.—(1) A law made under this Act for the Royal Indian Marine Service shall not apply to any offence unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, that is to say, the high seas between the Cape of Good Hope on the West and the Straits of Magellan on the East, and any territorial waters between those limits.

Laws for the Royal Indian Marine Service.

(2) The punishments imposed by any such law for offences shall be similar in character to, and not in excess of, the punishments which may, at the time of making the law, be imposed for similar offences under the Acts relating to His Majesty's Navy, except that, in the case of persons other than Europeans or Americans, imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude.

67.—(1) At a meeting of the Indian Legislative Council no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business in the Council, and no business shall be transacted other than the consideration of those motions or the alteration of those rules.

Business at meetings.

(2) It shall not be lawful, without the previous sanction of the governor-general, to introduce at any meeting of the council any measure affecting—

- (a) the public debt or public revenues of India, or imposing any charge on the revenues of India ; or
- (b) the religion or religious rites and usages of any class of British subjects in India ; or
- (c) the discipline or maintenance of any part of His Majesty's military or naval forces ; or
- (d) the relations of the Government with foreign princes or states.

(3) Notwithstanding anything in the foregoing provisions of this section, the Governor-General in Council may, with the sanction of the Secretary of State in Council, make rules authorising at any meeting of the Indian Legislative Council the discussion of the annual financial statement of the Governor-General in Council and of any matter of general public interest and the asking of questions, under such conditions and restrictions as may be prescribed in the rules. Rules made under this sub-section may provide for the appointment of a member of the council to preside at any such discussion in the place of the governor-general and of the vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the Governor-General in Legislative Council.

68.—(1) When an Act has been passed at a meeting of the Indian Legislative Council, the governor-general, whether he was or was not present in council at the passing thereof, may declare that he assents to the Act, or that he withholds assent from the Act, or that he reserves the Act for the signification of His Majesty's pleasure thereon.

Assent of governor-general to Acts.

(2) An Act of the Governor-General in Legislative Council has not validity until the governor-general has declared his assent thereto, or, in the case of an Act reserved for the signification of His Majesty's pleasure, until His Majesty has signified his assent to the governor-general through the Secretary of State in Council, and that assent has been notified by the governor-general.

69.—(1) When an Act of the Governor-General in Legislative Council has been assented to by the governor-general, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty to signify, through the Secretary of State in Council, his disallowance of any such Act.

Power of Crown to disallow Acts.

(2) Where the disallowance of any such Act has been so signified, the governor-general shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

70. The Governor-General in Legislative Council may, subject to the assent of the governor-general, alter the rules for the conduct of legislative business in the Indian Legislative Council (including rules prescribing the mode of promulgation and authentication of Acts passed by that council) ; but any alteration so made may be disallowed by the Secretary of State in Council, and if so disallowed shall have no effect.

Rules for conduct of legislative business.

Regulations and Ordinances.

71.—(1) The local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any regulation for the peace and good government of that part, with the reasons for proposing the regulation.

Power to make regulations.

(2) Thereupon the Governor-General in Council may take any such draft and reasons into consideration ; and, when any such draft has been approved by the Governor-General in Council and assented to by the governor-general, it shall be published in the Gazette of India and in the local official gazette, if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the Governor-General in Legislative Council.

(3) The governor-general shall send to the Secretary of State in Council an authentic copy of every regulation to which he has assented under this section.

(4) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

72. The governor-general may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof, and any ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the Governor-General in Legislative Council ; but the power of making ordinances under this section is subject to the like restrictions as the power of the Governor-General in Legislative Council to make laws ; and any ordinance made under this section is subject to the like disallowance as an Act passed by the Governor-General, in Legislative Council, and may be controlled or superseded by any such Act.

Power to make ordinances in cases of emergency.

Local Legislatures.

73.—(1) For purposes of legislation, the council of a governor, or of a lieutenant-governor having an executive council, shall consist of the members of his executive council with the addition of members nominated or elected in accordance with rules made under this Act.

Local legislatures.

(2) In the case of the councils of the governors of Madras and Bombay (and, if so ordered by the governor of Bengal, in the case of his council), the advocate-general or acting advocate-general for the time being of the presidency shall be one of the members so nominated.

(3) The legislative council of a lieutenant-governor not having an executive council, or of a chief commissioner, shall consist of members nominated or elected in accordance with rules made under this Act.

(4) Councils constituted as provided by this section are in this Act referred to as local legislative councils, and Governors, Lieutenant-Governors and Chief Commissioners in Legislative Council are in this Act referred to as local legislatures.

74.—(1) The number of additional members nominated or elected to the legislative council of the Governor of Bengal, Madras or Bombay, the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise, shall,

Constitution of legislative Councils in Bengal, Madras and Bombay.

in the case of each such council, be such as may be prescribed by rules made under this Act :

Provided that the aggregate number of members so nominated or elected shall not exceed the number specified in that behalf in the second column of the First Schedule to this Act.

(2) At least one-half of the additional members nominated or elected to any of those councils must be persons not in the civil or military service of the Crown in India ; and if any such person accepts office under the crown in India his seat as a member shall thereupon become vacant.

(3) An additional member of any of those councils is not entitled to be present at meetings of the governor's executive council.

(4) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected additional members of any of those legislative councils, and as to the qualifications for being, and for being nominated or elected, an additional member of any of those councils, and as to any other matter for which rules are authorized to be made under this section, and also as to the manner in which those rules are to be carried into effect.

(5) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the Governor-General in Legislative Council.

75.—(1) The legislative council of the Governor of Bengal, Madras or Bombay shall assemble at such times and places as the governor appoints.

(2) Any meeting of the council may be adjourned by the governor, or, under his authority, by the other person presiding.

(3) In the absence of the governor from any meeting of the council the person to preside thereat shall be the vice-president of the council, or, in his absence, the senior civil member of the executive council present at the meeting, or, during the discussion of the annual financial statement or of any matter of general public interest, the vice-president or the member appointed to preside in accordance with rules made under this Act.

Meetings of legislative councils of Bengal, Madras and Bombay.

(4) If any difference of opinion arises on any question brought before a meeting of the council, the person presiding shall have a second or casting vote.

76.—(1) The number of members nominated or elected to the legislative council of a lieutenant-governor or chief commissioner, the number of such members required to constitute a quorum, the term of office of such members, and the manner of filling casual vacancies occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise, shall, in the case of each such council, be such as may be prescribed by rules made under this Act :

Provided that the aggregate number of members so nominated or elected shall not, in the case of any legislative council mentioned in the first column of the First Schedule to this Act, exceed the number specified in that behalf in the second column of that schedule.

(2) At least one-third of the persons so nominated or elected to the legislative council of a lieutenant-governor or chief commissioner must be persons not in the civil or military service of the Crown in India.

(3) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to conditions under which and manner in which persons resident in India may be nominated or elected members of any of those legislative councils, and as to the qualifications for being, and for being nominated or elected, a member of any of those councils, and as to any other matter for which rules are authorized to be made under this section, and as to the manner in which those rules are to be carried into effect.

(4) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and those rules shall not be subject to repeal or alteration by the Governor-General in Legislative Council.

77.—(1) When a new lieutenant-governorship is constituted under this Act, the Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute the Lieutenant-Governor in Legislative Council of the province, as

Power to constitute new local legislatures.

from a date specified in the notification, a local legislature for that province, and define the limits of the province for which the Lieutenant-Governor in Legislative Council is to exercise legislative powers.

(2) The Governor-General in Council may, by notification, extend the provisions of this Act relating to legislative councils of lieutenant-governors, subject to such modifications and adaptations as he may consider necessary, to any province for the time being under a chief commissioner.

78.—(1) Every lieutenant-governor who has no executive council, and every chief commissioner who has a legislative council, shall appoint a member of his legislative council to be vice-president thereof.

Meetings of legislative councils of lieutenant-governors or chief commissioners.

(2) In the absence of the lieutenant-governor or chief commissioner from any meeting of his legislative council the person to preside thereat shall be the vice-president of the council, or, in his absence, the member of the council who is highest in official rank among those holding office under the Crown who are present at the meeting, or, during the discussion of the annual financial statement or of any matter of general public interest, the vice-president or the member appointed to preside in accordance with rules made under this Act.

(3) If any difference of opinion arises on any question brought before a meeting of the council, the person presiding shall have a second or casting vote.

79.—(1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

Powers of local legislatures.

(2) The local legislature of any province may, with the previous sanction of the governor-general, but not otherwise repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the governor-general, make or take into consideration any law—

(a) affecting the public debt of India, or the customs

duties, or any other tax or duty for the time being in force and imposed by the authority of the Governor-General in Council for the general purposes of the government of India ; or

- (b) regulating any of the current coin, or the issue of any bills, notes or other paper currency ; or
- (c) regulating the conveyance of letters by the post office or messages by the electric telegraph ; or
- (d) altering in any way the Indian Penal Code ; or
- (e) affecting the religion or religious rites and usages of any class of British subjects in India ; or
- (f) affecting the discipline or maintenance of any part of His Majesty's naval or military forces ; or
- (g) regulating patents or copyright ; or
- (h) affecting the relations of the Government with foreign princes or states.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.

(5) Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the governor-general in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the governor-general under this Act.

80.—(1) At a meeting of a local legislative council no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business in the council, and no business shall be transacted other than the consideration of those motions or the alteration of those rules.

Business at meetings.

(2) It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, lieutenant-governor or chief commissioner, any measure affecting the public revenues of the province or imposing any charge on those revenues.

(3) Notwithstanding anything in the foregoing provisions of this section, the local Government may, with the sanction

of the Governor-General in Council, make rules authorising, at any meeting of the local legislative council, the discussion of the annual financial statement of the local Government, and of any matter of general public interest, and the asking of questions, under such conditions and restrictions as may be prescribed in the rules. Rules made under this sub-section for any council may provide for the appointment of a member of the council to preside at any such discussion in the place of the governor, lieutenant-governor or chief commissioner, as the case may be, and of the vice-president, and shall be laid before both Houses of Parliament as soon as may be after they are made, and shall not be subject to repeal or alteration by the Governor-General in Legislative Council or the local legislature.

81.—(1) When an Act has been passed at a meeting of a local legislative council, the governor, lieutenant-governor or chief commissioner, whether he was or was not present in council at the passing of the Act, may declare that he assents to or withholds his assent from the Act.

Assent to Acts of local legislatures.

(2) If the governor, lieutenant-governor or chief commissioner withholds his assent from any such Act, the Act has no effect.

(3) If the governor, lieutenant-governor or chief commissioner assents to any such Act he shall forthwith send an authentic copy of the Act to the governor-general, and the Act shall not have validity until the governor-general has assented thereto and that assent has been signified by the governor-general to, and published by, the governor, lieutenant-governor or chief commissioner.

(4) Where the governor-general withholds his assent from any such Act, he shall signify to the governor, lieutenant-governor or chief commissioner in writing his reason for so withholding his assent.

82.—(1) When any such Act has been assented to by the governor-general, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty to signify, through the Secretary of State in Council, his disallowance of any such Act.

Power of Crown to disallow Acts of local legislatures.

(2) Where the disallowance of any such Act has been so signified, the governor, lieutenant-governor or chief commissioner

shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

83.—(1) The local Government of any province for which a local legislative council is hereafter constituted under this Act shall, before the first meeting of that council, and with the sanction of the Governor-General in Council, make rules for the conduct of legislative business in that council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council).

(2) A local legislature may, subject to the assent of the governor, lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local legislative council (including rules prescribing the mode of promulgation and authentication of laws passed by the council); but any alteration so made may be disallowed by the Governor-General in Council, and if so disallowed shall have no effect.

Validity of Indian Laws.

84. A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons :—

- (a) in the case of a law made by the Governor-General in Legislative Council, because it affects the prerogative of the Crown ; or
- (b) in the case of any law, because the requisite proportion of members not holding office under the Crown in India was not complete at the date of its introduction into the council or its enactment ; or
- (c) in the case of a law made by a local legislature, because it confers on magistrates, being justices of the peace, the same jurisdiction over European British subjects as that legislature, by Acts duly made, could lawfully confer on magistrates in the exercise of authority over other British subjects in the like cases. ~

Removal of doubts as to validity of certain Indian laws.

PART VII.

SALARIES, LEAVE OF ABSENCE, VACATION OF
OFFICE, APPOINTMENTS, &C.

85.—(1) There shall be paid to the Governor-General of India, and to the other persons mentioned in the Second Schedule to this Act, out of the revenues of India, such salaries, not exceeding in any case the maximum specified in that behalf in that Schedule, and such allowances (if any) for equipment and voyage, as the Secretary of State in Council may by order fix in that behalf, and, subject to or in default of any such order, as are payable at the commencement of this Act :

Salaries and allowances of governor-general and certain other officials in India.

(2) Provided as follows :—

- (a) an order affecting salaries of members of the governor-general's executive council may not be made without the concurrence of a majority of votes at a meeting of the Council of India ;
- (b) if any person to whom this section applies holds or enjoys any pension or salary, or any office of profit under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him ;
- (c) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of India.

(3) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

86.—(1) The Governor-General in Council may grant to any of the ordinary members of his executive council, and a Governor in council may grant to any member of his executive council, leave of absence under medical certificate for a period not exceeding six months.

(2) Where a member of council obtains leave of absence in pursuance of this section, he shall retain his office during

Leave of absence to members of executive councils.

his absence, and shall on his return and resumption of his duties be entitled to receive half his salary for the period of his absence ; but if his absence exceeds six months his office shall become vacant.

87.—(1) If the governor-general, or a governor, or the commander-in-chief of His Majesty's forces in India, and, subject to the foregoing provisions of this Act as to leave of absence, if any ordinary member of the executive council of the governor-general, or any member of the executive council of a governor departs from India, intending to return to Europe, his office shall thereupon become vacant.

Provisions as to absence from India or presidency.

“ (2) No act or declaration of the governor-general or a governor or a member of an executive council, other than as aforesaid, except a declaration in writing under hand and seal, delivered to a secretary to the Government of India or to the chief secretary of the presidency wherein he is, in order to its being recorded, shall be deemed or held as a resignation or surrender of his office.

“ (3) If the governor-general, or any ordinary member of the governor-general's executive council, leaves India otherwise than in the known actual service of the Crown, and if any governor, lieutenant-governor or member of a governor's executive council leaves the province to which he belongs, otherwise than as aforesaid, his salary and allowances shall not be payable during his absence to any person for his use.

“ (4) If any such officer, not having proceeded or intended to proceed to Europe, dies during his absence and whilst intending to return to India or to his province, his salary and allowances shall, subject to any rules in that behalf made by the Secretary of State in Council, be paid to his personal representatives.

“ (5) If any such officer does not return to India or his province, or returns to Europe, his salary and allowances shall be deemed to have ceased on the day of his leaving India or his province.

88.—(1) His Majesty may, by warrant under His Royal Sign Manual, appoint any person conditionally to succeed to any of the offices of governor-general, governor, ordinary member of the executive council of the governor-general, or

Conditional appointments.

member of the executive council of a governor, in the event of the office becoming vacant, or in any other event or contingency expressed in the appointment, and revoke any such conditional appointment.

(2) A person so conditionally appointed shall not be entitled to any authority, salary or emolument appertaining to the office to which he is appointed, until he is in the actual possession of the office.

89.—(1) If any person entitled under a conditional appointment to succeed to the office of governor-general, or appointed absolutely to that office, is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of governor-general before he takes his seat in council, he may make known by notification his appointment and his intention to assume the office of governor-general.

Power for governor-general to exercise powers before taking seat.

(2) After the notification, and thenceforth until he repairs to the place where the council may assemble, he may exercise alone all or any of the powers which might be exercised by the Governor-General in Council.

(3) All acts done in the council after the date of the notification, but before the communication thereof to the council, shall be valid, subject, nevertheless, to revocation or alteration by the person who has so assumed the office of governor-general.

(4) When the office of governor-general is assumed under the foregoing provision, the vice-president, or, if he is absent, the senior ordinary member of the council then present, shall preside therein with the same powers as the governor-general would have had if present.

90.—(1) If a vacancy occurs in the office of governor-general when there is no conditional or other successor in India to supply the vacancy, the governor who was first appointed to the office of governor by His Majesty shall hold and execute the office of governor-general, until a successor arrives or until some person in India is duly appointed thereto.

Temporary vacancy in office of governor-general.

(2) Every such acting governor-general, while acting as such, shall have and may exercise all the rights and powers of the office of governor-general, and shall be entitled to receive

the emoluments and advantages appertaining to the office, foregoing the salary and allowances appertaining to his office of governor ; and his office of governor shall be supplied, for the time during which he acts as governor-general, in the manner directed by this Act with respect to vacancies in the office of governor.

(3) If, on the vacancy occurring, it appears to the governor, who by virtue of this section holds and executes the office of governor-general, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of governor-general, and thereupon the provisions of this Act respecting the assumption of the office by a person conditionally appointed to succeed thereto shall apply.

(4) Until such a governor has assumed the office of governor-general, if no conditional or other successor is on the spot to supply such vacancy, the vice-president, or, if he is absent, the senior ordinary member of the executive council, shall hold and execute the office of governor-general until the vacancy is filled in accordance with the provisions of this Act.

(5) Every vice-president or other member of council so acting as governor-general, while so acting, shall have and may exercise all the rights and powers of the office of governor-general, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing his salary and allowances as member of council for that period.

91.—(1) If a vacancy occurs in the office of governor when no conditional or other successor is on the spot to supply the vacancy, the vice-president, or, if he is absent, the senior member of the governor's executive council, or, if there is no council, the chief secretary to the local Government, shall hold and execute the office of governor until a successor arrives, or until some other person on the spot is duly appointed thereto.

Temporary vacancy in office of governor.

(2) Every such acting governor shall, while acting as such, be entitled to receive the emoluments and advantages appertaining to the office of governor, foregoing the salary and allowances appertaining to his office of member of council or secretary.

92.—(1) If a vacancy occurs in the office of an ordinary member of the executive council of the governor-general or a member of the executive council of a governor, and there is no conditional or other successor present on the spot, the Governor-General in Council or Governor in Council, as the case may be, shall supply the vacancy by appointing a temporary member of council.

Temporary vacancy in office of member of an executive council.

(2) Until a successor arrives the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(3) If any ordinary member of the executive council of the governor-general or any member of the executive council of a governor is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave, then, if any person has been conditionally appointed to succeed to his office and is on the spot, the place of that member shall be supplied by that person, and, if no person conditionally appointed to succeed to the office is on the spot, the Governor-General in Council or Governor in Council, as the case may be, shall appoint some person to be a temporary member of council.

(4) Until the return to duty of the member so incapable or absent, the person conditionally or temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive half the salary of the member of council whose place he fills, and also half the salary of any other office which he may hold, if he hold any such office, the remaining half of such last-named salary being at the disposal of the Governor-General in Council or Governor in Council, as the case may be.

(5) Provided as follows :—

(a) no person may be appointed a temporary member of council who might not have been appointed under this Act to fill the vacancy supplied by the temporary appointment; and

(b) if the Secretary of State informs the governor-general that it is not the intention of His Majesty to fill a vacancy in the governor-general's executive council, no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the governor-general, the tenure of the person temporarily appointed shall cease from that date.

93.—(1) A nominated or elected member of the Indian Legislative Council or of a local legislative council may resign his office to the governor-general or to the governor, lieutenant-governor or chief commissioner, as the case may be, and on the acceptance of the resignation the office shall become vacant.

Vacancies in legislative councils.

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the governor-general, governor, lieutenant-governor or chief commissioner, as the case may be, may, by notification published in the Government Gazette, declare that the seat in council of that member has become vacant.

94. Subject to the provisions of this Act, the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make rules as to the absence on leave of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such leave may be granted.

Leave.

95.—(1) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, may make rules for distributing between the several authorities in India the power of making appointments to and promotions in offices under the Crown in India, and may reinstate officers and servants suspended or removed by any of those authorities.

Power to make rules as to Indian appointments.

(2) Subject to such rules, all appointments to offices and commands in India, and all promotions, which, by law, or under any regulations, usage or custom, are, at the commencement of this Act, made by any authority in India, shall, subject

to the qualifications, conditions and restrictions then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

96. No native of British India, nor any subject of His Majesty resident therein, shall, by reason of his religion, place of birth, descent, colour, or any of them, be disabled from holding any office under the Crown in India.

No disabilities in respect of religion, colour or place of birth.

PART VIII.

THE INDIAN CIVIL SERVICE.

97.—(1) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects desirous of becoming candidates for appointment to the Indian Civil Service.

Rules for admission to the Indian Civil Service.

(2) The rules shall prescribe the age and qualifications of the candidates, and the subjects of examination.

(3) All rules made in pursuance of this section shall be laid before Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(4) the candidates certified to be entitled under the rules shall be recommended for appointment according to the order of their proficiency as shown by their examination.

(5) Such persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

98. Subject to the provisions of this Act, all vacancies happening in any of the offices specified or referred to in the Third Schedule to this Act, and all such offices which may be created hereafter, shall be filled from amongst the members of the Indian Civil Service.

Offices reserved to the Indian Civil Service.

99.—(1) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of proved merit and ability domiciled in British India and born in British India of parents

Power to appoint certain persons to reserved offices.

habitually resident in India and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

(2) Every such appointment shall be made subject to such rules as may be prescribed by the Governor-General in Council and sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India.

(3) The Governor-General in Council may, by resolution, define and limit the qualification of persons who may be appointed under this section, but every resolution made for that purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

100.—(1) Where it appears to the authority in India by whom an appointment is to be made to any office reserved to members of the Indian Civil Service, that a person not being a member of that service ought, under the special circumstances of the case, to be appointed thereto, the authority may appoint thereto any person who has resided for at least seven years in India and who has, before his appointment, fulfilled all the tests (if any) which would be imposed in the like case on a member of that service.

(2) Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State, with the special reasons for making it; and, unless the Secretary of State in Council approves the appointment, with the concurrence of a majority of votes at a meeting of the Council of India, and within twelve months from the date of the appointment intimates such approval to the authority by whom the appointment was made, the appointment shall be cancelled.

PART IX.

THE INDIAN HIGH COURTS.

Constitution.

101.—(1) The high courts referred to in this Act are the high courts of judicature for the time being established in British India by letters patent,

Constitution of high courts.

(2) Each high court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint : Provided as follows :—

- (i) the Governor-General in Council may appoint persons to act as additional judges of any high court, for such period, not exceeding two years, as may be required ; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act ;
 - (ii) the maximum number of judges of a high court, including the chief justice and additional judges, shall be twenty.
- (3) A judge of a high court must be—
- (a) a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years' standing ; or
 - (b) a member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge ; or
 - (c) a person having held judicial office, not inferior to that of a subordinate judge or a judge of a small cause court, for a period of not less than five years ; or
 - (d) a person having been a pleader of a high court for a period of not less than ten years.

(4) Provided that not less than one-third of the judges of a high court, including the chief justice but excluding additional judges, must be such barristers or advocates as aforesaid, and that not less than one-third must be members of the Indian Civil Service.

(5) The high court for the North-Western Provinces may be styled the high court of judicature at Allahabad, and the high court at Fort William in Bengal is in this Act referred to as the high court at Calcutta.

Tenure of office of judges of high courts. 102.—(1) Every judge of a high court shall hold his office during His Majesty's pleasure.

(2) Any such judge may resign his office, in the case of the high court at Calcutta, to the Governor-General in Council and in other cases to the local Government.

103.—(1) The chief justice of a high court shall have rank and precedence before the other judges of the same court.

(2) All the other judges of a high court shall have rank and precedence according to the seniority of their appointments unless otherwise provided in their patents.

104.—(1) The Secretary of State in Council may fix the salaries, allowances, furloughs, retiring pensions, and (where necessary) expenses for equipment and voyage, of the chief justices and other judges of the several high courts, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

(2) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

(3) If a judge of a high court dies during his voyage to India, or within six months after his arrival there, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(4) If a judge of a high court dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

105.—(1) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local Government in other cases, shall appoint one of the other judges of the same high court to perform the duties of chief

Precedence of judges of high courts.

Salaries, &c., of judges of high courts.

Provision for vacancy in the office of chief justice or other judge.

justice of the court, until some person has been appointed by His Majesty to the office of chief justice of the court, and has entered on the discharge of the duties of that office, or until the chief justice has returned from his absence, as the case requires.

(2) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local Government in other cases, may appoint a person, with such qualifications as are required in persons to be appointed to the high court, to act as a judge of the court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by His Majesty to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the Governor-General in Council or the local Government, as the case may be, sees cause to cancel the appointment of the acting judge.

Jurisdiction.

106—(1) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdiction, powers and authority as are vested in those courts respectively at the commencement of this Act.

(2) The high courts have not and may not exercise any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force.

Powers of high court with respect to subordinate courts.

107. Each of the high courts has superintendence over all courts for the time being subject to its appellate juris-

diction, and may do any of the following things, that is to say,—

- (a) call for returns ;
- (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction ;
- (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts ;
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts ; and
- (e) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts :

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any Act for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local Government.

108.—(1) Each high court may by its own rules provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more judges, of the high court, of the original and appellate jurisdiction vested in the court.

(2) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief justice, are to constitute the several division courts.

109.—(1) The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of Christian subjects of His Majesty resident in any part of India outside British India.

(2) The Governor-General in Council shall transmit to the Secretary of State an authentic copy of every order made under this section.

(3) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance shall make void and annul the order as from the day on which the governor-general notifies that he has received intimation of the disallowance, but no act done by any high court before such notification shall be deemed invalid by reason only of such disallowance.

Exemption from jurisdiction of high court.

110.—(1) The governor-general, each governor, and each of the members of their respective executive councils, shall not—

- (a) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor
- (b) be liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction; nor
- (c) be subject to the original criminal jurisdiction of any high court in respect of any offence not being treason or felony.

(2) The exemption under this section from liability to arrest and imprisonment shall extend also to the chief justices and other judges of the several high courts.

111. The order in writing of the Governor-General in Council for any act shall, in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject; but nothing in this section shall exempt the governor-general, or any member of his executive council, or any person acting under their orders, from any proceedings in respect of any such act before any competent Court in England.

Written order by governor-general justification for act in any court in India.

Law to be administered.

112. The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in matters of inheritance and succession to lands, rents and goods, and in matters of contract and dealing between

Law to be administered in cases of inheritance and succession.

party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and when the parties are subject to different personal laws or customs having the force of law, decide according to the law or custom to which the defendant is subject.

Additional High Courts.

113. His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

Power to establish additional high courts.

Advocate-General.

114.—(1) His Majesty may, by warrant under His Royal Sign Manual, appoint an advocate-general for each of the presidencies of Bengal, Madras and Bombay.

Appointment and powers of advocate general.

(2) The advocate-general for each of those presidencies may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England.

PART X.

ECCLESIASTICAL ESTABLISHMENT.

115.—(1) The bishops of Calcutta, Madras and Bombay have and may exercise within their respective dioceses such episcopal functions, and such ecclesiastical jurisdiction for the superintendence and good government of the ministers of the church of England therein, as His Majesty may, by letters patent, direct.

Jurisdiction of Indian bishops.

(2) The Bishop of Calcutta is the Metropolitan Bishop in India, subject nevertheless to the general superintendence and revision of the Archbishop of Canterbury.

(3) Each of the bishops of Madras and Bombay is subject to the Bishop of Calcutta as such Metropolitan, and must at the time of his appointment to his bishopric, or at the time of his consecration as bishop, take an oath of obedience to the Bishop of Calcutta, in such manner as His Majesty, by letters patent, may be pleased to direct.

(4) His Majesty may, by letters patent, vary the limits of the dioceses of Calcutta, Madras and Bombay.

(5) Nothing in this Act or in any such letters patent as aforesaid shall prevent any person who is or has been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof.

♦116.—(1) The Bishop of Calcutta may admit into the holy orders of deacon or priest any person whom he, on examination, deems duly qualified specially for the purpose of taking on himself the cure of souls, or officiating in any spiritual capacity, within the limits of the diocese of Calcutta, and residing therein.

Power to admit to holy orders,

(2) The deposit with the bishop of a declaration of such a purpose, and a written engagement to perform the same, signed by the person seeking ordination, shall be a sufficient title with a view to his ordination.

(3) It must be distinctly stated in the letters of ordination of every person so admitted to holy orders that he has been ordained for the cure of souls within the limits of the diocese of Calcutta only.

(4) Unless a person so admitted is a British subject of or belonging to the United Kingdom, he shall not be required to take the oaths and make the subscriptions which persons ordained in England are required to take and make.

(5) Nothing in this section shall affect any letters patent issued by His Majesty.

117. If any person under the degree of bishop is appointed to the bishopric of Calcutta, Madras or Bombay, being at the time of his appointment resident in India, the Archbishop of Canterbury, if so required to do by His Majesty by letters patent, may issue a commission under his

Consecration of person resident in India appointed to bishopric.

hand and seal, directed to the two remaining bishops, authorising and charging them to perform all requisite ceremonies for the consecration of the person so to be appointed.

118.—(1) The bishops and archdeacons of Calcutta, Madras and Bombay are appointed by His Majesty by letters patent, and there may be paid to them, or to any of them, out of the revenues of India, such salaries and allowances as may be fixed by the Secretary of State in Council; but any power of alteration under this enactment shall not be exercised so as to impose any additional charge on the revenues of India.

Salaries and allowances of bishops and archdeacons.

(2) The remuneration fixed for a bishop or archdeacon under this section shall commence on his taking upon himself the execution of his office, and be the whole profit or advantage which he shall enjoy from his office during his continuance therein, and continue so long as he exercises the functions of his office.

(3) There shall be paid out of the revenues of India the expenses of visitations of the said bishops, but no greater sum may be issued on account of those expenses than is allowed by the Secretary of State in Council.

119.—(1) If the Bishop of Calcutta dies during his voyage to India for the purpose of taking upon himself the execution of his office, or if the Bishop of Calcutta, Madras or Bombay dies within six months after his arrival there for that purpose, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

Payments to representatives of bishops.

(2) If the Bishop of Calcutta, Madras or Bombay dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

120. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, grant, out of the revenues of India, to any Bishop of Calcutta a pension not exceeding

Pensions to bishops.

fifteen hundred pounds per annum if he has resided in India as Bishop of Calcutta, Madras or Bombay or archdeacon for ten years, or one thousand pounds per annum if he has resided in India as Bishop of Calcutta for seven years, or seven hundred and fifty pounds per annum if he has resided in India as Bishop of Calcutta for five years, or to any Bishop of Madras or Bombay a pension not exceeding eight hundred pounds per annum, to be paid quarterly, if he has resided in British India as such bishop for fifteen years.

121. His Majesty may make such rules as to the leave of absence of the Bishops of Calcutta, Madras and Bombay on furlough or medical certificate as seem to His Majesty expedient.

122.—(1) Two members of the establishment of chaplains maintained in each of the presidencies of Bengal, Madras and Bombay must always be ministers of the Church of Scotland, and shall be entitled to have, out of the revenues of India, such salary as is from time to time allotted to the military chaplains in the several presidencies.

(2) The ministers so appointed chaplains must be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland, and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgments shall be subject to dissent, protest and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

123. Nothing in this Act shall prevent the Governor-General in Council from granting, with the sanction of the Secretary of State in Council, to any sect, persuasion or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship.

PART XI.

OFFENCES, PROCEDURE AND PENALTIES.

124. If any person holding office under the Crown in India does any of the following things, that is to say,—

Certain acts to be misdemeanours.

- (1) if he oppresses any British subject within his jurisdiction or in the exercise of his authority ; or
Oppression.
- (2) if (except in case of necessity, the burden of proving which shall be on him) he wilfully disobeys, or wilfully omits, forbears or neglects to execute, any orders or instructions of the Secretary of State ; or
Wilful disobedience.
- (3) if he be guilty of any wilful breach of the trust and duty of his office ; or
Breach of duty.
- (4) if, being the governor-general, or a governor, lieutenant-governor or chief commissioner, or a member of the executive council of the governor-general or of a governor or lieutenant-governor, or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in, or has any dealings or transactions by way of, trade or business in any part of India, for the benefit either of himself or of any other person, otherwise than as a share-holder in any joint stock company or trading corporation ; or
Trading.
- (5) if he demands, accepts or receives, by himself or another, in the discharge of his office, any gift, gratuity or reward, pecuniary or otherwise, or any promise of the same, except in accordance with such rules as may be made by the Secretary of State as to the receipt of presents, and except in the case of fees paid or payable to barristers, physicians, surgeons and chaplains in the way of their respective professions,
Receiving presents.

he shall be guilty of a misdemeanour ; and if he is convicted of having demanded, accepted or received any such gift, gratuity or reward, the same, or the full value thereof, shall be forfeited to the Crown, and the court may order that the gift, gratuity or reward, or any part thereof, be restored to the person who gave it, or be given to the prosecutor or informer, and that the whole or any part of any fine imposed on the offender be paid or given to the prosecutor or informer, as the court may direct.

125.—(1) If any European British subject, without the previous consent in writing of the Secretary of State in Council or of the Governor-General in Council or of a local Government, by himself or another,—
Loans to princes or chiefs.

- (a) lends any money or other valuable thing to any prince or chief in India ; or
- (b) is concerned in lending money to, or raising or procuring money for, any such prince or chief, or becomes security for the repayment of any such money ; or
- (c) lends any money or other valuable thing to any other person for the purpose of being lent to any such prince or chief ; or
- (d) takes, holds, or is concerned in any bond, note or other security granted by any such prince or chief for the repayment of any loan or money hereinbefore referred to,
he shall be guilty of a misdemeanour.

(2) Every bond, note, or security for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any European British subject, contrary to the intent of this section, shall be void.

126.—(1) If any person carries on, mediately or immediately, any illicit correspondence, dangerous to the peace or safety of any part of British India, with any prince, chief, landholder or other person having authority in India, or with the commander, governor, or president of any foreign European settlement in India, or any correspondence, contrary to the rules and orders of the Secretary of State or of the Governor-General in Council or a Governor in Council, he shall be guilty of a misdemeanour ; and the governor-general or governor may issue a warrant for securing and detaining in custody any person suspected of carrying on any such correspondence.

(2) If, on examination taken on oath in writing of any credible witness before the Governor-General in Council or the Governor in Council, there appear reasonable grounds for the charge, the governor-general or governor may commit the person suspected or accused to safe custody, and shall within a reasonable time, not exceeding five days, cause to be delivered to him a copy of the charge on which he is committed.

(3) The person charged may deliver his defence in writing, with a list of such witnesses as he may desire to be examined in support thereof.

(4) The witnesses in support of the charge and of the defence shall be examined and cross-examined on oath in the presence of the person charged, and their depositions and examination shall be taken down in writing,

(5) If, notwithstanding the defence, there appear to the Governor-General in Council or Governor in Council reasonable grounds for the charge and for continuing the confinement, the person charged shall remain in custody until he is brought to trial in India or sent to England for trial.

(6) All such examinations and proceedings, or attested copies thereof under the seal of the high court, shall be sent to the Secretary of State as soon as may be, in order to their being produced in evidence on the trial of the person charged in the event of his being sent for trial to England.

(7) If any such person is to be sent to England, the governor-general or governor, as the case may be, shall cause him to be so sent at the first convenient opportunity, unless he is disabled by illness from undertaking the voyage, in which case he shall be so sent as soon as his state of health will safely admit thereof.

(8) The examinations and proceedings transmitted in pursuance of this section shall be received as evidence in all courts of law, subject to any just exceptions as to the competency of the witnesses.

127.—(1) If any person holding office under the Crown in India commits any offence under this Act, or any offence against any person within his jurisdiction or subject to his authority, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the county of Middlesex.

(2) Every British subject shall be amenable to all courts of justice in the United Kingdom, of competent jurisdiction to try offences committed in India, for any offence committed within India and outside British India, as if the offence had been committed within British India.

128. Every prosecution before a high court in British India in respect of any offence referred to in the last foregoing section must be commenced within six years after the commission of the offence.

**Prosecution of offences
in England.**

**Limitation for prosecutions
in British India.**

129. If any person commits any offence referred to in this Act he shall be liable to such fine or imprisonment or both as the court thinks fit, and shall be liable, at the discretion of the court, to be adjudged to be incapable of serving the Crown in India in any office, civil or military; and, if he is convicted in British India by a high court, the court may order that he be sent to Great Britain.

Penalties.

PART XII.

SUPPLEMENTAL.

Repeal of Acts.

130. The Acts specified in the Fourth Schedule to this Act are hereby repealed, to the extent mentioned in the third column of that Schedule :

Repeal.

Provided that this repeal shall not affect—

- (a) the validity of any law, charter, letters patent, Order in Council, warrant, proclamation, notification, rule, resolution, order, regulation, direction or contract made, or form prescribed, or table settled, under any enactment hereby repealed and in force at the commencement of this Act, or
- (b) the validity of any appointment, or any grant or appropriation of money or property, made under any enactment hereby repealed, or
- (c) the tenure of office, conditions of service, terms of remuneration or right to pension of any officer appointed before the commencement of this Act.

Savings.

131.—(1) Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the government of India.

Saving as to certain rights and powers.

(2) Nothing in this Act shall affect the power of Parliament to control the proceedings of the Governor-General in Council, or to repeal or alter any law made by any authority in British India, or to legislate for British India and the inhabitants thereof.

(3) Nothing in this Act shall affect the power of the Governor-General in Legislative Council to repeal or alter any of the provisions mentioned in the Fifth Schedule to this Act, or the validity of any previous exercise of this power.

132. All treaties made by the East India Company, so far as they are in force at the commencement of this Act, are binding on His Majesty, and all contracts made and liabilities incurred by the East India Company, may, so far as they are outstanding at the commencement of this Act, be enforced by and against the Secretary of State in Council.

Treaties, contracts and liabilities of East India Company.

133. All orders, regulations and directions lawfully made or given by the Court of Directors of the East India Company or by the Commissioners for the Affairs of India, are, so far as they are in force at the commencement of this Act, deemed to be orders, rules and directions made or given by the Secretary of State under this Act.

Orders of East India Company.

Definitions, Short Title and Commencement.

Definitions. **134.** In this Act, unless the context otherwise requires,—

- (1) "Governor-General in Council" means the governor general in executive council ;
- (2) "Governor in Council" means a governor in executive council ;
- (3) "Lieutenant-Governor in Council" means a lieutenant governor in executive council ;
- (4) "local Government" means a Governor in Council, Lieutenant-Governor in Council, lieutenant-governor or chief commissioner ;
- (5) "office" includes place and employment ;
- (6) "province" includes a presidency ; and
- (7) references to rules made under this Act include rules or regulations made under any enactment hereby repealed, until they are altered under this Act.

135. This Act may be cited as the Government of India Act, 1915, and shall come into operation on the first day of January one thousand nine hundred and sixteen.

Short title and commencement.

SCHEDULES.

Sections 63 (2), 74 (1), 76 (1).

FIRST SCHEDULE.

MAXIMUM NUMBER OF NOMINATED OR ELECTED MEMBERS
OF LEGISLATIVE COUNCILS.

Legislative Council.	Maximum Number.
Indian Legislative Council	Sixty.
Local Legislative Councils—	
Bengal Legislative Council	Fifty.
Madras Legislative Council	Fifty.
Bombay Legislative Council	Fifty.
Bihar and Orissa Legislative Council	Fifty.
United Provinces Legislative Council	Fifty.
Punjab Legislative Council	Thirty.
Burma Legislative Council	Thirty.
Assam Legislative Council	Thirty.
Central Provinces Legislative Council	Thirty.
Legislative Council of the Lieutenant-governor of any province hereafter constituted	Thirty.

SECOND SCHEDULE.

Section 85.

OFFICIAL SALARIES, ETC.

Officer.	Maximum annual salary.
Governor-General of India	Two hundred and fifty-six thousand rupees.
Governor	One hundred and twenty-eight thousand rupees.
Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
Lieutenant-Governor	One hundred thousand rupees.
Ordinary member of the governor-General's executive council.	*
Member of a governor's executive council.	Sixty-four thousand rupees.

* No statutory maximum has been fixed.

THIRD SCHEDULE.

Section 98.

OFFICES RESERVED TO THE INDIAN CIVIL SERVICE.

Part I.—General.

1. Secretaries, joint secretaries, deputy secretaries and under secretaries to the several Governments in India, except the secretaries, joint secretaries, deputy secretaries and under secretaries in the Army, Marine and Public Works Departments.
2. Accountants-general.
3. Members of the Board of Revenue in the presidencies of Bengal and Madras, the United Provinces of Agra and Oudh and the Province of Bihar and Orissa.
4. Secretaries to those Boards of Revenue.
5. Commissioners of customs, salt, excise and opium.
6. Opium agent.

Part II.—Offices in the provinces which were known in the year 1861 as "Regulation Provinces."

7. District and sessions judges.
 8. Additional district or sessions judges and assistant sessions judges.
 9. District magistrates.
 10. Joint magistrates.
 11. Assistant magistrates.
 12. Commissioners of revenue.
 13. Collectors of revenue, or chief revenue officers of districts.
 14. Assistant collectors.
-

FOURTH SCHEDULE.

Section 130.

ACTS REPEALED.

Session and Chapter.	Short Title.	Extent of Repeal.
10 Geo. 3, c. 47.	The East India Company Act, 1770.	The whole Act.
13 Geo. 3, c. 63.	The East India Company Act, 1772.	The whole Act, except sections forty-two, forty-three and forty-five.
21 Geo. 3, c. 70.	The East India Company Act, 1780.	The whole Act, except section eighteen.
26 Geo. 3, c. 57.	The East India Company Act, 1786.	Section thirty-eight.
33 Geo. 3, c. 52.	The East India Company Act, 1793.	The whole Act.
37 Geo. 3, c. 142.	The East India Act, 1797 . . .	The whole Act, except section twelve.
39&40 Geo. 3, c. 79.	The Government of India Act, 1800.	The whole Act.
53 Geo. 3, c. 155.	The East India Company Act, 1813.	The whole Act.
55 Geo. 3, c. 84.	The Indian Presidency Towns Act, 1815.	The whole Act.
4 Geo. 4, c. 71.	The Indian Bishops and Courts Act, 1823.	The whole Act.
6 Geo. 4, c. 85.	The Indian Salaries and Pensions Act, 1825.	The whole Act.
7 Geo. 4, c. 56.	The East India Officers' Act, 1826.	The whole Act.
3 & 4 Will. 4, c. 85.	The Government of India Act, 1833.	The whole Act, except section one hundred and twelve.

Session and Chapter.	Short Title.	Extent of Repeal.
5 & 6 Will. 4, c. 52.	The India (North-West Provinces) Act, 1835.	The whole Act.
7 Will. 4 & 1 Vict., c. 47.	The India Officers' Salaries Act, 1837. .	The whole Act.
5 & 6 Vict., c. 119.	The Indian Bishops Act, 1842 .	The whole Act.
16&17 Vict., c. 95.	The Government of India Act, 1853.	The whole Act.
17&18 Vict., c. 77.	The Government of India Act, 1854.	The whole Act.
21&22 Vict., c. 106.	The Government of India Act, 1858.	The whole Act, except section four.
22&23 Vict., c. 41.	The Government of India Act, 1859.	The whole Act.
23&24 Vict., c. 100.	The European Forces (India) Act, 1860.	The whole Act.
23&24 Vict., c. 102.	The East India Stock Act, 1860 .	The whole Act, except section six.
24&25 Vict., c. 54.	The Indian Civil Service Act, 1861.	The whole Act.
24&25 Vict., c. 67.	The Indian Councils Act, 1861 .	The whole Act.
24&25 Vict., c. 104.	The Indian High Courts Act, 1861.	The whole Act.
28&29 Vict., c. 15.	The Indian High Courts Act, 1865.	The whole Act.
28&29 Vict., c. 17.	The Government of India Act, 1865.	The whole Act.
32&33 Vict., c. 97.	The Government of India Act, 1869.	The whole Act.
32&33 Vict., c. 98.	The Indian Councils Act, 1869 .	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
33&34 Vict., c. 3.	The Government of India Act, 1870.	The whole Act.
33&34 Vict., c. 59.	The East India Contracts Act, 1870.	The whole Act.
34&35 Vict., c. 34.	The Indian Councils Act, 1871 .	The whole Act.
34&35 Vict., c. 62.	The Indian Bishops Act, 1871 .	The whole Act.
37&38 Vict., c. 3.	The East India Loan Act, 1874 .	Section fifteen.
37&38 Vict., c. 77.	The Colonial Clergy Act, 1874 .	Section thirteen.
37&38 Vict., c. 91.	The Indian Councils Act, 1874 .	The whole Act.
43 Vict., c. 3.	The Indian Salaries and Allow- ances Act, 1880.	The whole Act.
44&45 Vict., c. 63.	The India Office Auditor Act, 1881.	The whole Act.
47&48 Vict., c. 38.	The Indian Marine Service Act, 1884.	Sections two, three, four and five.
55&56 Vict., c. 14.	The Indian Councils Act, 1892 .	The whole Act.
3 Edw. 7, c. 11.	The Contracts (India Office) Act, 1903.	The whole Act.
4 Edw. 7, c. 26.	The Indian Councils Act, 1904 .	The whole Act.
7 Edw. 7, c. 35.	The Council of India Act, 1907 .	The whole Act.
9 Edw. 7, c. 4.	The Indian Councils Act, 1909 .	The whole Act.
1 & 2 Geo. 5, c. 18.	The Indian High Courts Act, 1911.	The whole Act.

Session and Chapter.	Short Title.	Extent of Repeal.
1 & 2 Geo. 5, c. 25.	The Government of India Act Amendment Act, 1911.	The whole Act.
2 & 3 Geo. 5, c. 6.	The Government of India Act, 1912.	The whole Act.

FIFTH SCHEDULE.

Section 131 (3).

PROVISIONS OF THIS ACT WHICH MAY BE REPEALED OR ALTERED BY THE GOVERNOR-GENERAL IN LEGISLATIVE COUNCIL.

Section.	Subject.
16	Transmission of information by the Governor-General in Council to the Secretary of State.
33, the last twenty words.	Obedience of Governor-General in Council to orders of Secretary of State.
40 (1)	Form and signature of proceedings of Governor-General in Council.
41 (1), the words "the Governor-General in Council shall be bound by the opinion and decision of the majority of those present."	Governor-General in Council to be bound by the opinion and decision of the majority of the members present at a meeting of the executive Council.
41 (4)	Restriction of powers of governor-general in acting against the opinion of the majority present at a meeting of his executive council.

Section.	Subject.
43 (2)	Orders by governor-general to local Governments or officers or servants during absence from his executive council.
43 (3)	Suspension by Secretary of State in Council of the power to issue orders under section 43 (2).
44	Restrictions on power of Governor-General in Council to make war or treaty.
45 (2)	Restrictions on power of local Government to make war or treaty ; punishment of officers disobeying orders of Governor-General in Council under this sub-section.
47 (3)	Commander-in-chief when to be a member of a governor's executive council.
49 (1)	Form and signature of proceedings of Governor-in-Council.
50 (2)	Power of governor to act against the opinion of the majority present at a meeting of his executive council.
50 (3)	Written communications, and signature, in such cases.
50 (4) last twelve words	Restriction on powers of governor in acting against the opinion of the majority present at a meeting of his executive council.
51, first paragraph, the last twelve words.	Powers of member of governor's executive council presiding in absence of governor.
51, proviso	Governor's signature to proceedings of meeting held in his absence.
62	Power to extend limits of presidency-towns.
104 (2)	Commencement and exclusiveness of official remuneration of judges of high courts.
104 (3), (4)	Payments to representatives of deceased judges of high courts.
106	Jurisdiction, powers and authority of high courts.

Section.	Subject.
108 (1)	Exercise of jurisdiction of high court by single judges or division courts.
109	Power for Governor-General in Council to alter local limits of jurisdiction of high courts, etc.
110	Exemption from jurisdiction of high courts.
111	Written order by Governor-General in Council a justification for act in high court.
112	Law to be administered in cases of inheritance, succession, contract and dealing between party and party.
114 (2)	Powers of advocate-general.
116	Power of Bishop of Calcutta to admit to holy orders.
118 (2)—so far as it relates to the Bishop of Calcutta and archdeacons.	Commencement, exclusiveness and continuance of official remuneration.
118 (3)—so far as it relates to the Bishop of Calcutta.	Expenses of visitations.
119—so far as it relates to the Bishop of Calcutta.	Payments to representatives of deceased bishop
120—so far as it relates to residence of the Bishop of Calcutta as such bishop or as archdeacon.	Pensions.
124 (1)	Oppression.
124 (4)—so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.	Trading.

Section.	Subject.
124 (5)—so far as it relates to persons other than the governor-general, a governor, or a member of the executive council of the governor-general or of a governor.	Receiving presents.
125	Loans to princes or chiefs.
126	Carrying on dangerous correspondence.
127	Prosecution of offences in the United Kingdom
128	Limitation for prosecutions in British India.
129	Penalties.

Indian Constitutional Documents (1773-1915).

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BY

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